

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SHIRLEY STEPHENS

V.

GEOVERA SPECIALTY
INSURANCE COMPANY

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CIVIL ACTION NO. 4:19-CV-1041

(District Court of Harris County, Texas
125th Judicial District,
Cause No. 2019-05565)

NOTICE OF REMOVAL

Defendant GeoVera Specialty Insurance Company (“GeoVera”) through undersigned counsel and pursuant to 28 U.S.C §§ 1441 and 1446, files this Notice of Removal of the action captioned as follows: *Alfredo Nandin v. GeoVera Specialty*, Cause No. 2019-05565, on the docket of the 125th Judicial District Court of Harris County, Texas. In support of this Notice of Removal, GeoVera respectfully represents the following:

1. Plaintiff Shirley Stephens (“Plaintiff”) commenced a state court action against GeoVera on or about January 23, 2019, by filing Plaintiff’s Original Petition (the “Petition”) in the 125th Judicial District Court of Harris County, Texas. Plaintiff chose to serve GeoVera via the Commissioner of the Texas Department of Insurance [TDI]. TDI was served via with the summons and a copy of the Petition on February 21, 2019. Thereafter, on March 5, 2019, TDI forwarded the summons and Petition to GeoVera and it was received on March 11, 2019.

2. A copy of all process, pleadings, and orders in the state-court action are being filed with this Notice of Removal.

3. The Petition avers that Plaintiff is a resident and citizen of Harris County, Texas.
(Pet. at p 1.)

4. The Petition alleges that GeoVera “is an insurance company doing business in the State of Texas.” (*Id.*) In fact, GeoVera is a corporation incorporated in the State of Delaware and its principal place of business is in Fairfield, California.

5. The Petition alleges that Plaintiff is insured by an insurance policy issued by GeoVera. (Pet. at p. 2.)

6. The Petition alleges that “Hurricane Harvey hit the Texas coast, damaging Shirley Stephens’ house and other property” on or about August 25-29, 2017, and that Plaintiff “subsequently filed a claim on her insurance policy.” (Pet. at p. 2.)

7. The Petition alleges that GeoVera failed to honor contractual obligations it owed to Plaintiff and that in adjusting Plaintiff’s claim it breached the Texas Insurance Code and the Texas Deceptive Trade Practices Act. (Pet. at p. 3.)

8. Plaintiff alleges in the Petition that she is seeking damages in an amount more than \$100,000 but not more than \$200,000. (Pet. at p. 2.)

9. GeoVera denies the underlying facts as alleged by Plaintiff in the Petition or as summarized in this Notice. GeoVera expressly denies that it has any liability to Plaintiff.

10. This Notice of Removal is filed within 30 days of service of the Petition and is therefore timely under 28 U.S.C. § 1446 (b).

DIVERSITY JURISDICTION

11. This Court has original jurisdiction pursuant to 28 U.S.C § 1332 (a), and this matter is therefore removable to this Court pursuant to 28 U.S.C. § 1441 (a), because there is complete diversity of citizenship among the parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

12. Plaintiff is a citizen of the State of Texas and GeoVera is a citizen of the State of California and/or the State of Delaware. Consequently, the parties in this matter are diverse.

13. In the Petition, Plaintiff alleges that she is seeking damages in an amount “over \$100,000, but not more than \$200,000.” (Pet. at p. 2.) Plaintiff’s claims for attorneys’ fees and penalties may be included as part of the amount in controversy for jurisdictional purposes. *See H&D Tire & Automotive-Hardware, Inc. v. Pitney Bowes, Inc.*, 227 F.3d 326, 330 (5th Cir. 2000). As a result, the amount in controversy in this matter clearly exceeds the jurisdictional minimum of \$75,000.00.

REMOVAL PROCEDURE

14. GeoVera has provided the clerk of the 125th Judicial District Court of Harris County, Texas with notice of this removal.

15. Pursuant to Local Rule 81, copies of the following documents are hereby provided to the clerk of this Court for filing in connection with this Notice of Removal:

- a. All executed process in the case;
- b. Pleadings asserting causes of action and all answers to such pleadings;
- c. An index of matters being filed; and
- d. A list of all counsel of record, including addresses, telephone numbers and parties represented.

WHEREFORE, GeoVera provides notice that this action is duly removed.

Respectfully submitted,

/s/ Donna F. Thomisee

Donna F. Thomisee

Attorney-in-Charge

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ATTORNEY-IN-CHARGE FOR GEOVERA
SPECIALTY INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2019, I caused the foregoing Notice of Removal to be:

☒ electronically filed with the Clerk of the Court using the CM/ECF system

☒ emailed to the following counsel of record:

Maria Gerguis
Daly & Black, P.C.
2211 Norfolk Street, Suite 800
Houston, TX 77098

/s/ Donna F. Thomisee
Donna F. Thomisee